IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NOS.7283 & 19002 OF 2003

WRIT PETITION NO : 7283 of 2003

Between:

1. Zainab Begum,

D/o.Mohammad Sahed,

Aged about 55 years,

SGT (Aided) in Moulana Azad

Memorial High School,

A.C.Guards, Hyderabad-500 004.

2. Samina Yasmeen,

D/o.M.A.Raheem,

Aged about 37 years,

SGT (Aided) in Moulana Azad,

Memorial High School,

A.C.Guards, Hyderabad-500 004.

..... PETITIONER

AND

1. Government of Andhra Pradesh,

rep. By its Secretary,

Education Department,

Secretariat, Hyderabad.

2. Regional Joint Director,

School Education,

Hyderabad.

3. The District Educational Officer,

Hyderabad.

4. Correspondent,

Moulana Azad Memorial high School,

A.C.Guards,

Hyderabad-500 004.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondents in not treating the initial appointment dates of the petitioners in the vacancy of aided S.G.T posts as 13-6-1991 and 31-7-91 instead of 16-12-93, as illegal, arbitrary, null and void and consequently direct the respondents 1 to 3 to consider the representations of the petitioners and the representations of respondent No.4 dated 28-12-93 and direct the respondents to issue the ratification orders treating the initial dates of appointment of the petitioners in the vacancy of aided posts as 13-6-91 and 31-7-91 respectively and issue ratification orders forthwith and pass such order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:SMT.S.V.INDIRA

Counsel for the Respondent No.1 to 3: GP FOR SCHOOL EDUCATION

AND

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WRIT PETITION NO : 19002 of 2003

Between:

Smt.Haseenatul Ean, w/o Ashraf Saleem
Moulna Memorial High School, A.C.Guards, Hyderabad-4.

..... PETITIONER

AND

1 Govt., of Andhra Pradesh rep., by its Secretary, Education Department, Secretariat, Hyderabad.
2 Regional Joint Director, School Education, Hyderabad.
3 District Educational Officer, Hyderabad.
4 Correspondent, Moulana Azad Memorial High School, A.C.Guards, Hyderabad-500 004.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents 1 to 3 in not issuing ratification orders of petitioner's promotion fixing the petitioner's promotion as S.A.II from 13-6-1991 instead of 16-12-1993, on par with others as illegal, arbitrary, null and void and consequently direct the respondents to issue ratification order of petitioner's promotion to the post of S.A.II w.e.f. 13-6-1991 i.e., since the date of vacancy of the Aided post instead of 16-12-1993 and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioners: SMT.S.V.INDIRA

Counsel for the Respondents 1 to 3: GP FOR SCHOOL EDUCATION

The Court made the following :

COMMON ORDER:

As the issue involved in both the writ petitions is one and the same, they can be conveniently disposed of by a common order.

Both the writ petitions are filed seeking a writ of Mandamus declaring the action of the respondents 1 to 3 in not treating the initial appointment dates of the petitioners in the vacancies of aided S.G.T. posts as per the proceedings issued by the fourth respondent, as illegal and arbitrary and consequently, to direct the respondents to issue ratification orders treating the initial dates of appointment of the petitioners in the vacancies of aided posts.

The facts of the case, shorn of unnecessary details, required for disposal of the writ petitions are as follows: -

The first and second petitioners in W.P.No.7283 of 2003 have been working in the fourth respondent-School in unaided posts from 1986 and 1987 onwards respectively and the sole petitioner in W.P.No.19002 of 2003 from 1983 onwards. While so, the fourth respondent issued proceedings absorbing the first and second petitioners in W.P.No.7283 of 2003 and the petitioner in W.P.No.19002 of 2003 into grant-in-aid posts with effect from 13.06.1991, 01.08.1991 and 13.06.1991 respectively in the clear vacancies of aided posts and intimated the same to the third respondent. Thereafter, the third respondent vide his proceedings in Rc.No.7309/D1/93, dated 16.12.1993, ordered absorption of the petitioners with effect from 16.12.1993.

Now, the grievance of the petitioners is that they have to be absorbed into the aided vacancies from the date of approval by the fourth respondent, instead the Government absorbed them into aided vacancies from the date of issuance of proceedings by the third respondent.

A counter-affidavit is filed on behalf of respondents 1 to 3, *inter alia*, stating that the proposals for admitting the petitioners into grant-in-aid posts were submitted by the fourth respondent with a delay of nearly one year, as such the petitioners are entitled to be admitted into the grant-in-aid posts only with effect from 16.12.1993 i.e., the date of issuance of proceedings by the third respondent.

The learned counsel appearing for the petitioners contended that for no fault of the petitioners, they were not appointed in the grant-in-aid S.G.T. posts from the date when the third respondent-District Education Officer, Hyderabad, who issued proceedings absorbing them into the aided posts. She further contended that the lapses, if any, are on part of the Management and also the Government in not approving the same and hence, she prays to allow the writ petition.

On the other hand, the learned Government Pleader for Higher Education appearing for respondents 1 to 3 contended that the fourth respondent-Management has not sent the proposals immediately after the petitioners were admitted into the grand-in-aid posts and the required information was not available with the Government so as to approve the absorption of the petitioners into aided vacancies with effect from 1991 and therefore, the petitioners are not entitled to be absorbed into the aided posts with effect from 1991, but are entitled only with effect from 16.12.1993 i.e. the date of approval by the Government and hence, prays to dismiss the writ petition.

In the instant case, the stand taken by the Government is that the fourth respondent has not sent the proposals immediately after appointing the petitioners into grant-in-aid posts and submitted them nearly after lapse of one year. Thereafter, as the proposals submitted by the fourth respondent are not in prescribed proforma and lacking relevant information, they were returned for compliance and that there was delay in resubmitting the proposals. There are lapses on the part of the fourth respondent in not sending the proposals to the competent authority immediately after absorption proceedings were issued. After sending the proposals, the Government also did not take any immediate action. The Government asked for ratification report from the authority concerned and ultimately, the third respondent- District Educational Officer, Hyderabad, submitted the information as required by the competent authority. All these are administrative lapses on the part of the Government in not approving the same. The lapses or omissions committed by the respondents, the petitioners cannot be made to suffer.

It is not in dispute that there are clear grant-in-aid vacancies in the year 1991 and therefore, the petitioners have to be absorbed into the grant-in-aid posts from the date of their appointment by the fourth respondent. As a matter of fact, the fourth respondent issued proceedings absorbing the first and second petitioners in W.P.No.7283 of 2003 and the sole petitioner in W.P.No.19002 of 2003 into grant-in-aid posts with effect from 13.06.1991, 01.08.1991

and 13.06.1991 respectively, as such the petitioners are entitled to absorption into grant-in-aid posts with effect from the above said dates.

The writ petitions are accordingly allowed. In the circumstances, no order as to costs.

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(K.C.BHANU, J)

15.07.2005

dr

That Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this Friday, the fifteenth day of July, Two thousand and Five

To

1. The Secretary, Government of Andhra Pradesh,

Education Department,

Secretariat, Hyderabad.

2. Regional Joint Director,

School Education,

Hyderabad.

3. The District Educational Officer,

Hyderabad.

4. The Correspondent,

Moulana Azad Memorial high School,

A.C.Guards,

Hyderabad-500 004.

5. Two CCs to the G.P for School Education, High Court of A.P.,

Hyderabad(O.U.T).

6. 2 CD copies